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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-----------------------------|---------------------|------------------|
| 10/544,165 | 07/29/2005 | Athanassios Tzikas | 4-22830/A/PC/T | 8577 |
| 324 7590 12/08/2009 JoAnn Villamizar Ciba Corporation/Patent Department 540 White Plains Road P.O. Box 2005 Tarrytown, NY 10591 | | | | |
| EXAMINER KHAN, AMINA S | | | | |
| ART UNIT 1796 | | PAPER NUMBER | | |
| NOTIFICATION DATE 12/08/2009 | | DELIVERY MODE ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/544,165

Applicant(s)

TZIKAS ET AL.

Examiner

AMINA KHAN

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/26/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7, 8 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 8 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s) Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s) Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to applicant's amendments filed on August 26, 2009.
2. Claims 1-4,7,8 and 11 are pending. Claims 5,6,9,10,12 and 13 have been cancelled.
3. Claims 1-4,7,8 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tzikas et al (US 6,160,101) in view of Tzikas et al (WO 00/06652) for the reasons set forth in the previous office action.
4. Claims 1 and 8 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/551,319 for the reasons set forth in the office action dated May 13, 2008. Applicants have not argued this rejection.

Response to Arguments

5. Applicant's arguments filed regarding Tzikas et al (US 6,160,101) in view of Tzikas et al (WO 00/06652) have been fully considered but they are not persuasive. The examiner argues that the motivation to combine the dyes is found in the Tzikas '652 reference (The Tzikas '652 document is not in English so the English equivalent

document, US 6,537,332, is being relied upon for citation purposes) wherein in column 9, lines 1-50 Tzikas '332 states that in addition to the dyes disclosed in the reference it is advantageous to add additional reactive dyes to form a mixture for the benefit of shade adjustment. This reference provides evidence that it is known to one of ordinary skill in the art to combine dyes in dyeing processes. In addition to this, it is prima facie obvious to combine two compositions each taught by the prior art to be useful for the same purpose, in order to form a third composition which is to be used for the very same purpose. See *In re Kerkhoven*, 205 USPQ 1069, 1072. Both Tzikas references are directed to dyeing similar fabric substrates for the benefit of producing dyed fabrics with good all-round properties such as light and washfastness (see both abstracts). Therefore combining one reactive dye with other reactive dyes to form mixtures for the benefit of achieving a desired shade and good all-round properties of the dyed fabric would be obvious to one of ordinary skill in the art. Accordingly, the rejections are maintained.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMINA KHAN whose telephone number is (571)272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5 off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Amina Khan/
Examiner, Art Unit 1796
December 1, 2009

/Lorna M Douyon/
Primary Examiner, Art Unit 1796